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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,526	01/29/2001	Otto Dobrounig	ADI-020CN	9695

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EXAMINER	
WONG, STEVEN B	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

GN

Office Action Summary	Application No.	Applicant(s)	
	09/771,526	DOBROUNIG, OTTO	
	Examiner	Art Unit	
	Steven Wong	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-12 and 24-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-12 and 24-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 3-6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoyama (5,688,192). Note the basis for the rejections set forth in the Office Actions mailed May 20, 2003 and July 8, 2004. Regarding the amendment to claim 1, this limitation is taught by the intermediate step of Aoyama. Here, Aoyama provides a core (2) that is formed as a ball that comprises multiple layers (4, 5). The outermost layer (5) of the ball (2) includes gas-filled microspheres in a polymer composition. The microspheres are taught as being flexible to permit compression. Note also column 4, lines 51-58 stating that the method for forming the multi-layered core. The citation describes the core as a sphere. This statement indicates that the core could be inherently termed as a "ball".

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3-7, 9-12 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/09034 (Mills) in view of Delacoste (4,154,789) and Aoyama (5,688,192). Note the basis for the rejections set forth in the Office Actions mailed May 20, 2003 and July 8, 2004. Regarding the amendment to claim 1, this limitation is taught by the combination of Mills in view of Delacoste and Aoyama. Mills teaches a soccer ball construction including an outermost layer (13, 14) for a ball. Delacoste teaches that it is well known in the art of soccer balls to provide a syntactic material in the outer skin. It would have been obvious to one of ordinary

skill in the art to include a syntactic material in the ball construction of Mills in order to construct a soccer ball having physical properties substantially akin to those of conventional leather balls.

Aoyama discloses that it is well known in the art of sportsballs to utilize resilient microspheres within the construction of the ball in order to alter the rebound characteristics of the ball. It would have been obvious to one of ordinary skill in the art to replace the glass microballs taught by Delacoste with those taught by Aoyama in order to alter the rebound characteristics of the ball.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/09034 (Mills) in view of Delacoste (4,154,789), Aoyama (5,688,192) and Kennedy et al. (5,091,265). Note the basis for the rejections set forth in the Office Action mailed May 20, 2003.

6. Claims 9, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoyama (5,688,192). Note the basis for the rejections set forth in the Office Action mailed May 20, 2003.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aoyama (5,688,192) in view of Kennedy et al. (5,091,265). Note the basis for the rejection set forth in the Office Action mailed May 20, 2003.

Response to Arguments

8. Applicants arguments filed January 7, 2005 have been fully considered but are not deemed to be persuasive. Regarding the applicant's argument that Aoyama does not provide the microspheres in the outermost layer of the ball, attention is directed to the rejection stated above. The claim is anticipated by the intermediate structure of Aoyama comprising the multi-layered core. During manufacture (column 4, lines 51-58) of Aoyama, the core is formed from an inner

layer and outer layer in the shape of a sphere. The sphere inherently comprises a ball. The outer layer which is a top layer complex forming an outermost layer complex of the ball includes the resilient microspheres. It should also be noted that the instant claims utilize the open language "comprising". The open language would permit the addition of further layers to the ball such as taught by the intermediate product of Aoyama and the addition of the covering layer (3).

Regarding the applicant's argument that the outer layer complex of the instant invention includes a number of individual layers bonded together which is not taught by Aoyama, the applicant is applying his own definition to the language which is not set forth by the specification. The outermost layer (5) of Aoyama could be seen as an infinite number of layers integrally joined together. Or, in the alternative, the outermost layer (5) of Aoyama could be seen as a complex in that it comprises several materials forming the layer. The language "complex" is not seen as being definitive in requiring a plurality of layers to form the outer layer.

Regarding the combination of Mills in view of Delacoste and Aoyama, the applicant contends that the combination lacks the teaching for an outer skin comprising a plurality of complexes. However, this is not persuasive as the reference to Delacoste teaches providing microspheres in the outermost layer complex of a soccer ball. It would have been obvious to one of ordinary skill in the art to provide the soccer ball of Mills with the syntactic material of Delacoste in order to construct a soccer ball having physical properties substantially akin to those of conventional leather balls. Aoyama teaches providing resilient microspheres in a game ball in order to alter the rebound characteristics of the ball. It would have been obvious to one of ordinary skill in the art to replace the glass microballs of Delacoste with those taught by Aoyama in order to alter the rebound characteristics of the ball.

Regarding the argument that Delacoste lacks the teaching for resilient microspheres, attention is directed to column 3, line 63 through column 4, line 13 of Delacoste. This passage states that other microspheres may be utilized in order to alter the rebound characteristics of the ball. Thus, this passage suggests modifying the microspheres in order to alter the rebound characteristics of the ball. Aoyama provides resilient microspheres in a game ball construction in order to alter the resilience and softness of the ball. To replace the microspheres of Delacoste with those of Aoyama would have been obvious to one of ordinary skill in the art given the suggestion by Delacoste to provide various microspheres for altering the rebound characteristics of the ball and the teaching of Aoyama to provide resilient microspheres in a game ball in order to alter the resilience of the ball.

Applicant's argument that Delacoste only teaches glass microballs that are rigid in character is noted, however, the rejection is over the combination of Mills in view of Delacoste and Aoyama. The citation of Delacoste is relied upon for its teaching that it is well known in the art of game balls to provide microspheres in the outer layer of the game ball and that it is known in the art to provide various forms of the microspheres in order to alter the characteristics of the ball. Here, Delacoste teaches using hollow and solid microspheres in order to desirably alter the rebound characteristics of the ball. The reference to Aoyama teaches the use of resilient microspheres also in a game ball environment in order to alter the resilience of the ball. Given the suggestion of Delacoste to use different microspheres in order to desirably alter the rebound characteristics of the game ball, it would have been obvious to one of ordinary skill in the art to replace the glass microspheres with the resilient microspheres of Aoyama in order to further alter the play characteristics of the ball.

Regarding the applicant's argument that Aoyama provides his microspheres in order to reduce the rebound of the ball, this argument is not persuasive. The applicant cites column 1, lines 14-32 of Aoyama in support of his statement. However, this passage does not support the applicant's argument. The passage describes the prior art and does not positively state that reduced rebound is a characteristic of the instant invention. In contrast to applicant's statement, attention is drawn to column 2, lines 21-38 of Aoyama stating that the ball will retain the same softness as a wound ball and retain resilience like a solid construction ball. Thus, it is clear that the ball will not have reduced rebound as applicant alleges.

Regarding applicant's argument that Aoyama teaches away from the teachings of Delacoste, this argument is not persuasive. First, as noted above, Aoyama does not teach reduced resilience as applicant alleges. Column 1, lines 62-65 and column 2, lines 36-38 of Aoyama describe the high resilience obtained by the construction. Second, while it is true that Delacoste provides glass microspheres in his construction, he does alter the glass microspheres between solid and hollow thus creating a suggestion to one of ordinary skill in the art to provide various other microspheres in order to further alter the rebound or bounce characteristics of the ball. Clearly, one of ordinary skill in the art would look to the teachings of Aoyama given this suggestion since Aoyama clearly discloses that his microspheres modify the resilience and hardness of the ball.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven Wong
Primary Examiner

Art Unit 3711

SBW
March 10, 2005